



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 8896-02
6 November 2002

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) Case Summary
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a commissioned officer in the Naval Reserve, filed an application with this Board requesting that her record be corrected to allow her to qualify for reserve retirement.

2. The Board, consisting of Mr. Brezna, Mr. Kastner and Mr. McPartlin, reviewed Petitioner's allegations of error and injustice on 5 November 2002 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Petitioner's application was filed in a timely manner.

c. Petitioner enlisted in the Naval Reserve for four years on 19 January 1961. Subsequently, she then earned three consecutive qualifying years for reserve retirement. In her last anniversary year beginning on 19 January 1964 and ending on 18 January 1965, she has only been credited with 27 of the 50 retirement points needed for a qualifying year. She was honorably discharged on 18 January 1965 at the expiration of her enlistment.

d. Petitioner reenlisted in the Naval Reserve on 25 June 1987 at age 46. She subsequently acknowledged that she would have to request retention past age 60 in order to qualify for reserve retirement. She served in an excellent manner for 12 consecutive qualifying years and, in 1996, was advanced to chief

petty officer. On 15 May 1999 she accepted a commission as a warrant officer (CWO2) and has earned qualifying years since then.

e. As indicated, Petitioner reentered the Naval Reserve at age 46 and therefore needed an age waiver to serve past age 60 and qualify for reserve retirement. Such waivers have been routinely granted for both officer and enlisted members. However, Title 10 U.S.C. 14509, which became effective on 1 October 1996, requires that reserve officers be discharged on the last day of the month in which the officer becomes 60 years of age. No waivers are allowed and no other provisions of law "grandfather" those already serving. Age waivers are still granted for enlisted personnel.

f. At the end of her anniversary year on 24 June 2002, Petitioner will have completed 18 qualifying years for reserve retirement. However, she cannot qualify for reserve retirement because her discharge will be required on 30 May 2002, the last day of the month following her 60th birthday. The Naval Reserve Personnel Administrative Division (Pers 91), Navy Personnel Command recommends that the record be corrected to show that she reenlisted in the Naval Reserve one year earlier, on 25 June 1986, and that the record be further corrected to show that the additional year is qualifying for reserve retirement. It is further recommended that she be credited with 23 retirement points in the anniversary year ending 18 January 1965, raising the total in that year to 50 so that it will be qualifying for reserve retirement. Although Petitioner needs less than two years of additional service, the additional two year period was selected because it will not require a change in her anniversary year. With this change, Petitioner will be eligible to transfer to the Retired List on 17 November 2002, her 60th birthday.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that Petitioner reenlisted and was commissioned with the expectation that she could qualify for reserve retirement, but will be prevented from doing so because of the unfortunate consequences of 10 U.S.C. 14509. Given the circumstances, the Board concludes that the record should be corrected as recommended by Pers 91.

Therefore, the record should be corrected to show that Petitioner

reenlisted in the Naval Reserve on 18 August 1986 for eight years, vice the enlistment of 18 August 1987 now of record, and that all subsequent enlistments or extensions be adjusted so that she will have continuous service since then. Sufficient retirement points should be transferred from the excess over 50 in prior or subsequent anniversary years to make the anniversary years ending 18 January 1965 and 24 June 1987 qualifying for reserve retirement. Since Petitioner will have over 20 qualifying years, she should be transferred to the Retired List on 17 November 2002, her 60th birthday, with eligibility for retired pay from that date.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand the reasons for the corrections to his record.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that she reenlisted in the Naval Reserve on 25 June 1986 for eight years, vice the reenlistment of 25 June 1987 now of record, and that any subsequent reenlistments or extensions be adjusted accordingly so that the record shows continuous service from 25 June 1986.

b. That Petitioner's naval record be further corrected by transferring sufficient points from the excess for 50 in prior or subsequent anniversary years to make the anniversary years ending on 18 January 1965 and 24 June 1987 qualifying for reserve retirement.

c. That Petitioner's naval record be further corrected to show that she transferred to the Retired List on 17 November 2002 her 60th birthday.

d. That this Report of Proceedings be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

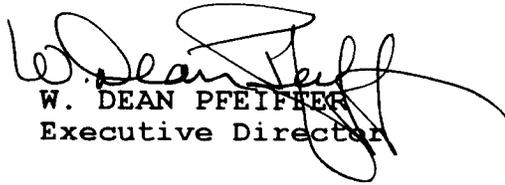
ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of

Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEIFFER
Executive Director